IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/01/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION NO.583 OF 2003
AND
CRL.M.P.NOS.228 AND 229 OF 2003.

1.Kailash Rohera
2.Dr.C.Karmegam
3.R.S.Murugan
4.R.Sivakami ... Petitioners

-Vs-

M/s.First Leasing Company of India
Limited, No.749, Mount Road,
Chennai-600 002, represented by
its Authorised Agent R.Natarajan ... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.9151 of 20 01 on the file of the Court of XIII Metropolitan Magistrate, Egmore, Chennai-8 and quash the same against the petitioners.

For petitioner : Mr.M.Selvaraju

:O R D E R

The above Criminal Original Petition has been filed under Section 48 2 of the Code of Criminal Procedure praying to call for the records in C.C.No.9151 of 2001 on the file of the Court of XIII Metropolitan Magistrate, Egmore, Chennai-8 and quash the same against the petitioners.

2. On a perusal of the materials placed on record and upon hearing the learned counsel for the petitioner it comes to be known that the respondent herein had filed a private complaint before the Court of XIII Metropolitan Magistrate, Egmore, Chennai-8 as against the petitioners and others praying to punish them petitioner/accused for the offences punishable under Sections 138 to 142 of the Negotiable Instruments Act.

3. Petitioners are arrayed as A.5 to A.8 in the case. The case of the respondent/complainant is that the Accused No.3 to 8 in the case are the Directors of the first accused company whereas the second accused is the

Managing Director of the same; that the accused entered into an Equipment Lease Agreement in respect of certain equipments and in respect of the dues payable by the first accused company under such agreement, the first accused company represented by the second accused, had issued three cheques, each for a sum of Rs.1,38,241/= (totalling to Rs.4,14,723/=) on 10.10.2001, 1.11.2001 and 1.12.2001 to the respondent and when the same were presented for collection by the complainant through their Bankers Vijaya Bank, Mount Road Branch, Chennai-2 they were dishonoured with remarks `insufficient funds'; that immediately on 28.1.2002, the complainant issued a notice to all the accused, which were returned unserved on with the endorsements `not claimed' on 2.2.2002 and hence all the accused are liable to be punished for the offences punishable under Sections 138 to 142 of the Negotiable Instruments Act.

4. The above complaint of the complainant was taken on file by the Court below in C.C.No.9151 of 2002. At this stage, the petitioners/A.5 to A.8 have come forward to file the above criminal original petition praying to quash the said case on ground that the respondent/ complainant had filed the complaint against the petitioners, as if they are the Directors of the first accused company on the date of dishonour whereas the petitioners have resigned from the Directorship of the A1 company on 22.3.1999 itself and the certified copy of the Form 32 issued by the Registrar of Companies, Coimbators shows that the first petitioner resigned from the A1 company on 28.9.1998 and the petitioners 2 to 4 have resigned on 22.3.1999 itself.

5. At the outset, the legal points regarding the jurisdiction and maintainability of such petitions being filed before the High Court seeking to invoke the inherent powers of the High Court conferred under Section 482 of the Cr.P.C and the necessity to cause such interference should be determined.

6. It is not the case of the petitioners that they raised all the points which they have raised before this Court in the above Crl.O.P in the trial Court in which the petitioners have absolutely no impediment to raise these points nor is it the case of the petitioners that either the trial Court is not competent to hear the points raised in the petition nor having raised all these points before the trial Court, they have been rejected by the trial Court as a result of which left with no option, they have approached this Court seeking the High Court to make use of its inherent jurisdiction as they have now come forward to pray.

7. Needless to mention that the petitioners are at liberty to file a Criminal Miscellaneous Petition in the trial Court itself thus raising the preliminary objections of the legalities which are being testified in the above Crl.O.P, which the trial Court is bound to consider and pass orders and even if the petitioners are aggrieved of any such order passed by the trial Court, they are still at liberty to file a Criminal revision case before the Revision Forum. While these statutory alternate remedies are very well available, it is not at all desirable on the part of the petitioners to have come up to this Court seeking to invoke this Court's inherent jurisdiction

conferred by law under Section 482 of the Cr.P.C which is meaningless and therefore, it is undesirable on the part of this Court to make use of its discretion bypassing the statutory alternate remedies available which would not only amount to usurping into the original jurisdiction of the trial Court at a stretch when it is not at all necessary to interfere with such of the powers of the trial Court, as though the petitioners are not having any effective alternate remedy.

8. The inherent powers have been conferred on the High Court only to make use of them sparingly and in such circumstances wherein all other alternative legal remedies have been exhausted and the petitioners are left with no choice but to seek to pray to the High Court to invoke its inherent jurisdiction and therefore, for no reason, the petitioners have failed to make out the appropriate petitions before the trial Court which is competent to deal with all such questions raised in the above Crl.O.P and therefore, it is neither necessary nor incumbent on the part of this Court to deal with such questions bypassing the remedies available on ordinary laws and hence this criminal original petition, at this score itself, become liable to be dismissed even prior to going into the merit of those points raised which could very well be appreciated by the trial Court itself.
9. In the above circumstances, it is only desirable to dismiss the above Criminal Original Petition and is liable to be dismissed.
In result, the above Criminal Original Petition is dismissed at the admission stage itself.

Consequently, connected Crl.M.P.Nos.228 and 229 of 2003 are also dismissed.

Index:yes
Internet:yes
Rao

To

XIII Metropolitan Magistrate,
Egmore, Chennai-8.

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